



COMPLIANCE AUDIT

**JABATAN KASTAM DIRAJA MALAYSIA
BAHAGIAN PENGURUSAN PEMATUHAN**



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1. INTRODUCTION

Compliance Audit officers are responsible to perform audits and monitoring of the licensee / company which are administered under the Customs Act 1967, Sales Tax Act 1972, Service Tax Act 1975, Excise Act 1976, Windfall Profit Levy Act 1998 and Free Zones Act 1990.

2. WHAT IS AN AUDIT

Audit is a systematic examination of the books, records, business systems and commercial data stored by an auditee directly or indirectly involved in the payment of duties and taxes.

3. WHY IS AUDIT NECESSARY

An audit is performed:

- 3.1 To ensure duties / taxes levied, collected and paid are correct and accurate;
- 3.2 To detect any irregularities or customs fraud and take appropriate action, and
- 3.3 To increase awareness and compliance to customs laws and regulations.

4. LAWS RELATING TO COMPLIANCE AUDIT

Provision of the laws in respect of auditing the licensee / company includes:

4.1 Access to the place or premises –

At any time, any proper officer shall have full and free access of any place or premises, books, documents and other records for the purpose of determining the amount of tax payable. The relevant provisions of law are:

- Section 106A of the Customs Act 1967
- Section 36 Sales Tax Act 1972
- Section 24 Service Tax Act 1975
- Section 44 Excise Act 1976
- Section 18 Windfall Profit Levy Act 1998



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4.2 Assessment of duty / tax –

A proper officer may assess the duty / tax on goods or services. The relevant provisions of law are:

- Section 13 Customs Act 1967
- Section 20 & 21 Sales Tax Act 1972
- Section 13 Service Tax Act 1975
- Section 8 Excise Act 1976.
- Section 12 Windfall Profit Levy Act 1998

4.3 Duty to keep record / documents –

Every person liable to pay tax shall keep a full and true up to date record on all transactions which affect or may affect his liability to tax. The relevant provisions of law are:

- Section 100A Customs Act 1967
- Section 18 Sales Tax Act 1972
- Section 11 Service Tax Act 1975
- Section 36 Excise Act 1976
- Section 12 Windfall Profit Levy Act 1998

4.4 Persons bound to give information -

Every person having information about any matter into which is the duty of the proper officer to inquire, shall upon being required, give such information / document. The relevant provisions of law are:

- Section 101 / 100 Customs Act 1967
- Section 34 Sales Tax Act 1972
- Section 23 Service Tax Act 1975
- Section 41 Excise Act 1976
- Section 17 Windfall Profit Levy Act 1998

4.5 Seizure of articles, books, documents or things that is the subject of offence -

An audit officer may seize all books, documents or articles that are related to any offence that, he has reasonable cause to suspect, has been committed. The relevant provisions of law are:

- Section 114 Customs Act 1967
- Section 40 Sales Tax Act 1972
- Section 27 Service Tax Act 1975
- Section 54 Excise Act 1976
- Section 18(2)(c) Windfall Profit Levy Act 1998



5. WHO CAN BE AUDITED (AUDITEE)

Persons/entities that may be audited:-

- 5.1 Licensed manufacturers of sales taxable goods.
- 5.2 Licensed manufacturers of excisable good
- 5.3 Licensed providers of taxable services
- 5.4 Importer / Declarant / Owner / Consignee of goods imported.
- 5.5 Person / companies who are licensed / registered under Acts administered by the Department.
- 5.6 Transporters, Forwarding Agents dan Warehousing Agents of imported goods.
- 5.7 Person / companies granted duty and tax exemptions
- 5.8 Other persons / companies who are directly or indirectly involved with transactions concerning importation of goods and goods or services subject to tax.

6 AUDIT TYPE AND VENUE

- 6.1 Audits can be performed as desk audits and field audits.
- 6.2 The venue to conduct an audit depends on the type described above. A desk audit is performed at a customs office while field audits are at the premises of the auditee or at any place convenient to the auditee.

7 VISIT TO PREMISES

- 7.1 Except in particular cases, the auditee will receive a notice for an audit visit not less than 14 days before the audit and setting forth the date, time and place the audit is to be conducted.
- 7.2 The auditee may request in writing on reasonable grounds for an extension of time to prepare for the audit visit.
- 7.3 In exceptional cases, an audit investigation may be conducted without prior notice.



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8 EXAMINATION OF RECORDS / DOCUMENTS

The audit officer shall also send a notice listing records and documents required to be available for audit which includes:

- 8.1 Sales records / documents (sales invoice, bill, purchase order, delivery note, credit note, debit note, receipt, daily / monthly sales record, cash book, sales journal, debtors ledger, general ledger, sales and purchase agreement, bank statement, statement of sales and other relevant document).
- 8.2 Purchase records / documents (purchase invoice, delivery note, credit note, debit note, receipt, daily / monthly purchase record, cash book, purchase journal, creditors ledger, general ledger, sales and purchase agreement, bank statement, statement of purchase and other relevant documents).
- 8.3 Manufacturing records / documents (goods request note, raw materials / finished goods stock card, work in progress record, production record, rejected goods record, manufacturing / production waste record, packing list, overhead cost record, costing report, manufacturing accounts and other source documents)
- 8.4 Customs records / documents (Form CJP No.1, Form Customs No. 1A / 2 / 3 / 8 / 9, Form Excise No. 7 / 8, exemption letter, facilities approval letter and other relevant documents).
- 8.5 An audit officer should also be allowed to access to computer systems, electronic data and download accounting data.
- 8.6 Examination of the books, records, documents and electronic data includes examination of physical stock where necessary.

9 SCOPE OF AUDIT

- 9.1 The audit officer may require records and documents to examine the tax and duty liability for any taxable period or any transaction relating to the goods or services in question.
- 9.2 Generally, an audit would cover three (3) years.

10 DURATION OF AN AUDIT

The duration taken for audit depends on the size and complexity of business transactions involved, records kept and the level of cooperation given by the companies audited.



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11 BEFORE THE AUDIT

- 11.1 Auditors are required to display their authority card bearing their name, position, identification number and photograph on arrival at the auditee's premises. Auditors shall provide a copy of the notice of audit visit and their authorisation to audit.
- 11.2 An entry conference with the auditee or officers of the company to be audited such as directors and accountants is to be held to provide an overall view of the impending audit process particularly on the accounting systems, record maintenance and payment of duties and taxes.

12 RIGHTS AND RESPONSIBILITIES OF AUDITEES

- 12.1 Auditees can contact the State Customs office to confirm the audit visit.
- 12.2 Auditees are advised to verify the authenticity of the identity and authorisations of the auditors.
- 12.3 Auditees are responsible to:
- a) Allow the auditors to enter premises, provide information and documents, review and make copies of / extracts from documents.
 - b) Provide explanations and information required by the auditors.
 - c) Answer questions raised.
 - d) Preserve records and documents for six years and submit to the customs officer when requested.
- 12.4 Auditees shall not:
- 12.4.1 Prevent auditors from performing their duties,
 - 12.4.2 Provide false information,
 - 12.4.3 Hide facts, documents and information
 - 12.4.4 Provide any form of gift, gratuity, recompense, or wages or make promises and do any transaction with the auditors.
- 12.5 Auditees have the right to auditors having good ethics and professionalism:
- a) Displaying and acting:
 - Honesty;
 - Integrity;
 - Neatness;
 - Courteous;



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- Disciplined;
- Helpful and keen to provide advice;
- Motivated; and
- Politeness when communicating

b) Auditors shall not:

- Audit the companies in which they have an interest;
- Receive bribes, gratuity, recompense or reward for ignoring or not performing tasks
- Behave unappropriately.

13 AUDIT COVERAGE

- 13.1 The auditor is required to examine that declarations, levy and charging, collection and the payment of duties and taxes are undertaken correctly and accurately.
- 13.2 The auditor is required to scrutinise the eligibility and adherence of the conditions of duty and tax exemptions granted and that the exemptions was correctly claimed.
- 13.3 Compliance to licensing requirements and conditions are also checked.

14 AUDIT FINDINGS

- 14.1 An exit conference to disclose and discuss the audit findings shall be held between the auditor (s) and auditee and should be attended by officers of the audited company such as directors and accountants.
- 14.2 If there is any short payment of duty / tax, a bill of demand will be issued pursuant to Section 17 Customs Act 1967, Section 30 Sales Tax Act 1972, Section 20 Service Tax Act 1975, Section 15 Excise Act 1976 and Section 15 Windfall Profit Levy Act 1998.

15 CONFIDENTIALITY OF INFORMATION

Auditors are not to disclose any information acquired in the course of the audit except required or allowed under law.



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16 APPEALS

Section 143 of the Customs Act 1967, section 68 of the Sales Tax Act 1972, section 50 of the Service Tax Act 1975 and section 47 of the Excise Act 1976 allows any person who is aggrieved by the decision of the Director General of Customs to make an appeal to the Tribunal on any matter except in any matter relating to compound or subsection 128(3) of the Customs Act 1967, subsection 55(3) of the Sales Tax Act 1972 and subsection 67(3) of the Excise Act 1976.

- 16.1 An appeal may be made within 30 days from the date of notification of the decision in writing.
- 16.2 The decision of the Tribunal is final and binding on all parties to the proceedings and considered as an order from the Sessions Court.
- 16.3 Any person not satisfied with the decision of the Tribunal may appeal to the High Court.

17 COMPLAINTS

Any complaint can be made to the State Director of Customs where the audit is conducted or channel to the RMCD Headquarters via web site www.customs.gov.my/e-complaint..

Compliance Management Division
Head Quarters of Royal Malaysian Customs Department

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